

A. Election with Traverse.

The Examiner requires Applicant to elect an invention. In response to the Examiner's requirements, Applicant elects group I, including claims 1-16 and 37-42 with traverse.

Applicant respectfully submits the Examiner has not established a proper basis for requiring restriction of Applicant's claims under 35 U.S.C. § 121 and respectfully traverses the requirement for the following reasons.

As noted by the Examiner, the process of making a product and the product made by the process can be shown to be distinct inventions if either or both of the following factors can be shown: "A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make other and different products; or (B) that the product as claimed can be made by another and materially different process." MPEP § 806.05(f).

Applicant respectfully submits that the Examiner has not shown either or both of the above factors to be true. First, the Examiner did not argue the first factor was true, namely that the process as claimed was not an obvious process or that it could be used to make other or different products. Thus, the first factor has not been proven. Second, while, the Examiner argued, in regards to the second factor, that the product can be made by many different methods as illustrated by claims 17-36 and 63-84 and that the product is not limited to a unique method process, this analysis is faulty. The MPEP clearly requires a showing that the product can be made by "another and materially different process". The word "another" modifies "process", thus requiring a showing that the product can be made by "another process". The "another

process” refers back to the “A process” at the beginning of the sentence, which is the process or processes disclosed in the application. Since the word “another” means “different or distinct from the one first considered” (Merriam Webster online Dictionary, www.m-w.com/home), the process shown must be different than the first one considered; i.e. the process disclosed in the patent application. The burden on the Examiner is to show that there is a process, not claimed by the applicant that is materially different than what is claimed by the applicant, to produce the same product. Thus, Applicants own methods in the patent cannot be used to show “another and materially distinct process”. Therefore, the Examiner has failed to make the required showing under MPEP 806.05(f) and the restriction should be removed.

B. Species.

In view of the election of group I, with traverse, Applicants select the following species:

Category I – copper

Category II – moralized polymer films

Category III – lithium phosphorous oxynitrides

Category IV – ionically conductive polymers

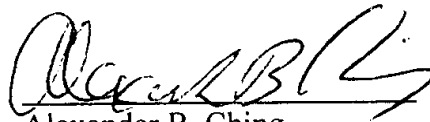
Applicants note that once the generic claims pending in the applications are allowed, the claims to all originally file species should be allowed as provided by 37 C.F.R. 1.141, 1.146.

C. Conclusion.

For the foregoing reasons, Applicant respectfully requests the Examiner to reconsider and withdraw the requirement for restriction and examine all claims on the merits. If any concerns remain or arise which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to **Deposit Account No. 19-3878**.

Respectfully submitted,



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